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Marin County Pesticide Regulatory Program 2006/2007 Performance Evaluation Report

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October 9, 2007

Performance Evaluation of Marin County Agricultural Commissioner's Pesticide Use Enforcement Program

This report provides a performance evaluation of Marin County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for the fiscal year (FY) 2006/2007. The assessment evaluates the performance of goals identified in the CAC's Enforcement Work Plan (EWP) as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and EWP goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and EWP goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and EWP goals.

Summary Statement:

The Enforcement Branch Liaison (EBL) has been unable to conduct many oversight inspections with the county staff prior to this evaluation due to light brown apple moth trapping and staff reduction. Although deficiencies have been identified in the Marin CAC's pesticide use program, the program is currently assessed as effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

1) Permit Issuance

The Marin CAC permit issuance procedures and performance were evaluated through observation and interviews of relevant staff and found to conform to DPR standards and expectations. The biologists that issue permits all possess Pesticide Regulation and Investigation and Environmental Monitoring licenses. The DPR evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for time periods allowed by law; and
- Permit amendments follow approved procedures.

The Marin CAC only issues restricted materials permits for a one-year period. The Marin CAC issued approximately one non-agricultural permit in FY

2006/2007. Approximately 30 restricted materials permits and 45 Operator I.D.s were issued in FY 2006/2007. The PUE Deputy gives annual training on the policies and procedures used to issue permits and properly identify sites.

2) Site Evaluation

The Marin CAC site evaluation procedures were evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations. The CAC received approximately 53 Notices of Intent (NOI) in FY 2005/2006. The CAC issued permits for approximately 115 sites during fiscal year 2005/2006. The permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all NOIs in a timely manner and adequately monitored agricultural and nonagricultural permits utilizing pre-application site evaluations and use monitoring inspections.

NOIs are received by fax machine, telephone and answering machine. Certified pesticide enforcement staff reviews the NOIs and compares them to the permits in the computer. One biologist is scheduled to remain in the main office each day and is responsible to review the days NOIs and issue permits. Each biologist in the field has a cellular telephone and is often contacted to check sites in sensitive areas when NOIs are submitted.

B) Compliance Monitoring:

1) Inspections

The Marin CAC's inspection procedures and performance were evaluated through DPR oversight inspections and record review and were found to conform to DPR standards and expectations.

- Biologists performing inspections possess Pesticide Regulation and Investigation and Environmental Monitoring licenses.
- Inspections are performed according to the inspection strategy documented in the CAC's EWP.
- Inspections are performed according to DPR policies and procedures and inspection reports are complete and comprehensive. The inspections adequately provide the information necessary to successfully prosecute violations.
- The biologists also review the compliance history for the firm/person inspected and meet with the Senior PUE Biologist and Deputy and before issuing a violation notice. The Senior PUE Biologist and Deputy are responsible for approving violation notices, case files, and Notices of Proposed Action (NOPAs).

- The county needs to improve on setting up times when the DPR EBL can meet with biologists to conduct oversight inspections.
- The EBL has been unable to conduct many oversight inspections with the county staff prior to this evaluation due to light brown apple moth trapping and staff reduction.

Inspections performed by the CAC were found to:

- Adequately document non-compliances/violations; and
- Include appropriate follow-up inspections and procedures.

2) Investigations

The Marin CAC investigation procedures and performance were evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations.

- The CAC investigates all complaints and complete their reports in a timely manner. The CAC refers and/or notifies DPR and other agencies as required.
- All of the staff of the Marin CAC's office that conduct pesticide enforcement investigations are designated as Agricultural Biologists.
- All PUE Biologists attended the Pesticide Episode Investigation Training in 2006. Training on investigative sampling is provided to the staff on an annual basis.
- Investigations are thorough and complete and are submitted on approved forms and in the approved format. The investigations document violations and the CAC collects evidence according to DPR standards. The investigations adequately provide the information necessary to successfully prosecute violations.

Investigations performed by the CAC were found to:

- Adequately address label, law and regulatory requirements, if applicable; and
- Include interviews of employers and employees as appropriate.

C) Enforcement Response:

Marin County Biologists have not been submitting decision reports (DRs) to the DPR under the Enforcement Response Regulation (ERR) requirements in a timely manner. Biologists may need some assistance in determining the appropriate category (A, B or C) for non-compliances found during inspections. Biologists may also need some practice in writing the details of the inspections and explanations associated with justification for their enforcement/compliance decisions.

- The CAC did not address the ERR in the 2005-2006 EWP as necessary and they need to submit DRs to DPR in a timely manner as required.
- The EBL has been unable to conduct many oversight inspections with the county staff prior to this evaluation due to light brown apple moth trapping and staff reduction associated with that issue and the decrease in inspectors due to other resource issues.

III. Corrective Actions Previously Identified

- The CAC has not developed a layer within the geographic information systems (GIS) database to map properties and track complaints and illness investigations, map sensitive site locations such as schools and endangered species, waterways, etc, as stated in their 2005-2006 EWP. They will work to develop tracking of weed populations, organic sites and vineyards as a “carryover” action in their 2006-2007 EWP.
- The CAC has not improved the accuracy and quality of ranch site maps, as stated in their 2005-2006 EWP and will carry this over to the 2006-2007 EWP.
- The CAC has not increased the use of digital cameras and taken advantage of digital and other technology, as stated in their 2005-2006 EWP and will carry this over to the 2006-2007 EWP.
- The CAC has not performed a greater number of structural and residential pest control pesticide use inspections, as stated in their 2005-2006 EWP and will carry this over to the 2006-2007 EWP.
- The CAC has not developed an overview handout for ranchers that summarizes laws and regulations, as stated in their 2005-2006 EWP. A handout has been developed, but it needs revision and regular issuance to ranchers and will carry this over to the 2006-2007 EWP.
- There has been no increase in the opportunity for the EBL to conduct oversight inspections performed with the county, as stated in their 2005-2006 EWP.
- The CAC has not created a checklist for staff to refer to when issuing permits/OPID’s, as stated in their 2005-2006 EWP and will carry this over to the 2006-2007 EWP.
- The ERR has only partially been implemented and was not mentioned in the 2005-2006 EWP.

IV. Recommended Corrective Actions

DPR and the staff person responsible for the county PUE program have jointly identified the following corrective actions:

Restricted Materials Permitting:

- The CAC needs to implement changes to the EWP associated with RMP to address self evaluation requirements discussed with DPR during the evaluation process. The areas requiring attention are associated with addressing areas that need improvement in their operations and an associated plan for attaining improvement in their programs.
- The county GIS program has developed improvement with ranch maps and with mapping organic sites. Weed populations are monitored by Marin’s Weed Management program. Vineyards and schools can also be mapped for permitting.

Compliance Monitoring Inspections:

- The CAC needs to implement changes to the EWP associated with Compliance Monitoring Inspections to address self evaluation requirements

discussed with DPR during the evaluation process. The areas requiring attention are associated with addressing areas that need improvement in their operations and an associated plan for attaining improvement in their programs.

- The county needs to improve on setting up times when the DPR EBL can meet with biologists to conduct oversight inspections. They have had a reduction in staff in 2006-2007 and hope to increase DPR EBL participation in the inspection process for 2007-2008.
- The county stated in their 2005-2006 EWP that they would increase the number of structural and residential pest control pesticide use inspections and this was rolled over to the 2006-2007 EWP. Due to the loss of staff for much of the year, this activity will be rolled over to the 2007-2008 EWP.
- The county has purchased digital cameras and plans to purchase more of them so that every inspector has their own camera.
- The CAC was to develop an overview handout for ranchers, which summarizes laws and regulations that they need to follow, as stated in their 2005-2006 EWP. Some work has been done on these handouts, but they are not yet complete and will be rolled over into the 2007-2008 EWP.

Investigations:

- The CAC, with assistance from DPR, will provide training in investigative techniques and evidence collection.
- The county has purchased digital cameras and plans to purchase more of them so that every inspector has their own camera.

Enforcement Response:

- The CAC needs to integrate the ERR into the enforcement/compliance actions discussed into the EWP. The PUE Senior Biologist has stated that she will work with her biologists to implement the ERR and ensure that her biologists follow ERR guidelines when making decisions on appropriate enforcement/compliance actions to be taken and conduct these decisions in a timely manner. Inspections were down in 2006-2007 due to staff reduction problems and this has affected the county's effectiveness in enforcement response.
- A tracking system should be set up for follow-up or enforcement/compliance action tracking.
- The CAC needs to implement changes to the EWP associated with Enforcement Response to address self evaluation requirements discussed with DPR during the evaluation process. The areas requiring attention are associated with addressing areas that need improvement in their operations and an associated plan for attaining improvement in their programs.

V. Non-Core and Desirable Activities

- There are no non-core activities conducted by Marin County that are not considered to be, or are associated with, core outreach activities.